

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANGIE KAY TRAXLER,  
Plaintiff,

v.

COMMISSIONER OF SOCIAL  
SECURITY,  
Defendant.

No. 2:21-cv-01494 CKD (SS)

ORDER

Plaintiff seeks judicial review of a final decision of the Commissioner of Social Security (“Commissioner”) denying an application for Supplemental Security Income (“SSI”) under Title XVI of the Social Security Act (“Act”). The parties have consented to Magistrate Judge jurisdiction to conduct all proceedings in the case, including the entry of final judgment. For the reasons discussed below, the court will grant plaintiff’s motion for summary judgment and deny the Commissioner’s cross-motion for summary judgment.

BACKGROUND

Plaintiff, born in 1976, applied on February 19, 2019 for SSI, alleging disability beginning February 8, 2019. Administrative Transcript (“AT”) 15, 24. Plaintiff alleged she was unable to work due to cervical spine pain, trouble using her hands, asthma, anxiety, and depression. AT

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135. In a decision dated January 13, 2021, the ALJ determined that plaintiff was not disabled.<sup>1</sup>

AT 15-25. The ALJ made the following findings (citations to 20 C.F.R. omitted):

1. The claimant has not engaged in substantial gainful activity since February 19, 2019, the application date.

2. The claimant has the following severe impairments: degenerative disc disease; anxiety disorder; major depressive disorder; obesity; right arm fracture; status-post open reduction internal fixation; COPD/asthma/allergic rhinitis; flexion contracture of the bilateral hands.

3. The claimant does not have an impairment or combination of impairments that meets or medically equals one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1.

4. After careful consideration of the entire record, the undersigned

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<sup>1</sup> Disability Insurance Benefits are paid to disabled persons who have contributed to the Social Security program, 42 U.S.C. § 401 et seq. Supplemental Security Income is paid to disabled persons with low income. 42 U.S.C. § 1382 et seq. Both provisions define disability, in part, as an “inability to engage in any substantial gainful activity” due to “a medically determinable physical or mental impairment. . . .” 42 U.S.C. §§ 423(d)(1)(a) & 1382c(a)(3)(A). A parallel five-step sequential evaluation governs eligibility for benefits under both programs. See 20 C.F.R. §§ 404.1520, 404.1571-76, 416.920 & 416.971-76; Bowen v. Yuckert, 482 U.S. 137, 140-142, 107 S. Ct. 2287 (1987). The following summarizes the sequential evaluation:

Step one: Is the claimant engaging in substantial gainful activity? If so, the claimant is found not disabled. If not, proceed to step two.

Step two: Does the claimant have a “severe” impairment? If so, proceed to step three. If not, then a finding of not disabled is appropriate.

Step three: Does the claimant’s impairment or combination of impairments meet or equal an impairment listed in 20 C.F.R., Pt. 404, Subpt. P, App.1? If so, the claimant is automatically determined disabled. If not, proceed to step four.

Step four: Is the claimant capable of performing his past work? If so, the claimant is not disabled. If not, proceed to step five.

Step five: Does the claimant have the residual functional capacity to perform any other work? If so, the claimant is not disabled. If not, the claimant is disabled.

Lester v. Chater, 81 F.3d 821, 828 n.5 (9th Cir. 1995).

The claimant bears the burden of proof in the first four steps of the sequential evaluation process. Bowen, 482 U.S. at 146 n.5, 107 S. Ct. at 2294 n.5. The Commissioner bears the burden if the sequential evaluation process proceeds to step five. Id.

1 finds that the claimant has the residual functional capacity to perform  
2 light work except that she can occasionally push, pull, handle and  
3 finger with her right upper extremity; frequently push, pull, handle  
4 and finger with her left upper extremity. She can occasionally climb  
5 ladders, ropes, and scaffolds; and occasionally crawl. She must  
6 avoid concentrated exposure to pulmonary irritants . . . [and] avoid  
7 even moderate exposure to workplace hazards[.] She can understand,  
8 remember, and carry out simple instructions, make simple work-  
9 related decisions, and tolerate occasional changes in a routine work  
10 setting.

11 5. The claimant has no past relevant work.

12 6. The claimant was born on XX/XX/1976, which is defined as a  
13 younger individual age 18-49 on the date the application was filed.

14 7. The claimant has a limited education.

15 8. Transferability of job skills is not an issue in this case because the  
16 claimant does not have past relevant work.

17 9. Considering the claimant's age, education, work experience, and  
18 residual functional capacity, there are jobs that exist in significant  
19 numbers in the national economy that the claimant can perform.<sup>2</sup>

20 10. The claimant has not been under a disability, as defined in the  
21 Social Security Act, since February 19, 2019, the date the application  
22 was filed.

23 AT 17-25.

## 24 ISSUES PRESENTED

25 Plaintiff argues that the ALJ committed the following errors in finding plaintiff not  
26 disabled: (1) the ALJ failed to provide legally sufficient reasons for discounting plaintiff's  
27 subjective symptom testimony; (2) the ALJ's residual functional capacity finding is not supported  
28 by substantial evidence; and (3) the ALJ's finding that there are a significant number of jobs in  
the national economy plaintiff could perform is not supported by substantial evidence.

## 29 LEGAL STANDARDS

30 The court reviews the Commissioner's decision to determine whether (1) it is based on  
31 proper legal standards pursuant to 42 U.S.C. § 405(g), and (2) substantial evidence in the record  
32 as a whole supports it. Tackett v. Apfel, 180 F.3d 1094, 1097 (9th Cir. 1999). Substantial

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<sup>2</sup> Relying on vocational expert testimony, the ALJ found that plaintiff could perform the  
requirements of light, unskilled jobs such as counter clerk, usher, and salon attendant. AT 24.

evidence is more than a mere scintilla, but less than a preponderance. Connett v. Barnhart, 340 F.3d 871, 873 (9th Cir. 2003) (citation omitted). It means “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” Orn v. Astrue, 495 F.3d 625, 630 (9th Cir. 2007), quoting Burch v. Barnhart, 400 F.3d 676, 679 (9th Cir. 2005). “The ALJ is responsible for determining credibility, resolving conflicts in medical testimony, and resolving ambiguities.” Edlund v. Massanari, 253 F.3d 1152, 1156 (9th Cir. 2001) (citations omitted). “The court will uphold the ALJ’s conclusion when the evidence is susceptible to more than one rational interpretation.” Tommasetti v. Astrue, 533 F.3d 1035, 1038 (9th Cir. 2008).

The record as a whole must be considered, Howard v. Heckler, 782 F.2d 1484, 1487 (9th Cir. 1986), and both the evidence that supports and the evidence that detracts from the ALJ’s conclusion weighed. See Jones v. Heckler, 760 F.2d 993, 995 (9th Cir. 1985). The court may not affirm the ALJ’s decision simply by isolating a specific quantum of supporting evidence. Id.; see also Hammock v. Bowen, 879 F.2d 498, 501 (9th Cir. 1989). If substantial evidence supports the administrative findings, or if there is conflicting evidence supporting a finding of either disability or nondisability, the finding of the ALJ is conclusive, see Sprague v. Bowen, 812 F.2d 1226, 1229-30 (9th Cir. 1987), and may be set aside only if an improper legal standard was applied in weighing the evidence. See Burkhart v. Bowen, 856 F.2d 1335, 1338 (9th Cir. 1988).

## ANALYSIS

### A. Credibility

Both parties’ arguments focus on whether the ALJ properly considered plaintiff’s upper extremity impairments. (ECF No. 16 at 5, n.1 & ECF No. 18 at 2, n. 1.) As noted above, the ALJ determined that plaintiff had the residual functional capacity (RFC) to occasionally push, pull, handle and finger with her right upper extremity, and frequently perform those same activities with her left upper extremity. AT 20. The RFC indicated that plaintiff could do light work, which “involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds.” See 20 CFR 416.967(b).

Plaintiff asserts that the ALJ’s reasons for discounting her subjective symptom testimony were not legally sufficient, such that the lifting/carrying limitations in the RFC are not supported

1 by substantial evidence. The ALJ summarized plaintiff's testimony on this issue as follows:

2           The claimant testified that because of rheumatoid arthritis her hands  
3           do not open all the way. She says she has pain in her neck and arms,  
4           as well as stiffness in her arms, and that she has a sensation like  
          someone is hammering on her arms and hands. She said she can lift  
          just two to three pounds.

5 AT 21 (citing hearing testimony); see AT 137-138 (plaintiff testified she was taking medication  
6 for rheumatoid arthritis and did exercises for hand strength, but still could not open bottles and  
7 dropped items she picked up), AT 143-145 (plaintiff testified her arms were stiff every day and  
8 her hands only opened halfway; she dropped small objects and had trouble writing and buttoning  
9 clothes); AT 146 (plaintiff testified the heaviest weight she could lift was 2 to 3 pounds).

10           After describing plaintiff's testimony, the ALJ found that "the claimant's statements  
11 concerning the intensity, persistence, and limiting effects of [her] symptoms are not entirely  
12 consistent with the medical evidence for the reasons explained in this decision." AT 21.

13           The ALJ next summarized the medical evidence, including a May 2019 cervical MRI.<sup>3</sup>  
14 AT 21, citing AT 856-857. "The limitation to light work . . . with additional limitations on  
15 pushing, pulling, handling, and fingering sufficiently account for these findings," the ALJ wrote.  
16 AT 21. The ALJ did not say whether or to what extent this medical evidence contradicted  
17 plaintiff's subjective symptom testimony.

18           The ALJ continued her summary of the evidence, writing in part:

19           She has a history of flexion contractures of both hands. The pain  
20           starts in her hands and radiates up her arms. On exam, the claimant  
21           has stiffness in her arms and hands. She has decreased range of  
          motion and grip strength.

22 AT 21 (record citations omitted). As above, the ALJ wrote: "The lifting/carrying limitations  
23 associated with light work . . . with additional limitations on pushing, pulling, handling and  
24 fingering sufficiently accommodate these impairments." AT 21.

25           At the end of her summary of the medical evidence, the ALJ concluded: "The claimant's  
26 statements about the intensity, persistence, and limiting effects of her symptoms are not fully

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27 <sup>3</sup> Plaintiff disputes the ALJ's characterization of the MRI, which focused on mild findings, while  
28 plaintiff asserts that "significant abnormalities were present." (ECF No. 16 at 10.)

1 consistent with the objective evidence.” AT 22. She did not explain why the cited medical  
2 evidence undermined plaintiff’s testimony about her hand pain, stiffness, difficulty holding onto  
3 objects, and inability to lift more than a few pounds.

4 Similarly, after discussing the medical opinions, the ALJ made generalized statements  
5 about the appropriateness of the RFC, e.g., “From a physical standpoint, the claimant’s treatment  
6 notes, minimal objective findings, physical examinations, and activities of daily living<sup>4</sup> support  
7 finding the claimant capable of performing a reduced range of light exertional work.” AT 23.  
8 The RFC, the ALJ wrote, “is supported by the objective medical evidence in the record.  
9 Treatment notes in the record do not sustain the claimant’s allegations of disabling limitations.  
10 Further, the objective medical evidence is not consistent with the claimant’s allegations.” AT 23.  
11 These generalities failed to address plaintiff’s specific symptom testimony about her limited  
12 ability to lift, carry, handle, and manipulate objects, which if credited, would call the RFC into  
13 question.

14 The ALJ determines whether a disability applicant is credible, and the court defers to the  
15 ALJ’s discretion if the ALJ used the proper process and provided proper reasons. See, e.g.,  
16 Saelee v. Chater, 94 F.3d 520, 522 (9th Cir. 1995). If credibility is critical, the ALJ must make an  
17 explicit credibility finding. Albalos v. Sullivan, 907 F.2d 871, 873-74 (9th Cir. 1990); Rashad v.  
18 Sullivan, 903 F.2d 1229, 1231 (9th Cir. 1990) (requiring explicit credibility finding to be  
19 supported by “a specific, cogent reason for the disbelief”). “Without affirmative evidence  
20 showing that the claimant is malingering, the Commissioner’s reasons for rejecting the claimant’s  
21 testimony must be clear and convincing.” Morgan v. Commissioner of Social Sec. Admin., 169  
22 F.3d 595, 599 (9th Cir. 1999).

23 The Ninth Circuit recently clarified that, when discounting subjective testimony, an ALJ  
24 must provide “specific, clear, and convincing *reasons* for doing so.” Wade v. Saul, 850 F. App’x  
25 568, 569 (9th Cir. 2021) (emphasis in original), citing Lambert v. Saul, 980 F.3d 1266, 1277–78  
26 (9th Cir. 2020).

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27 <sup>4</sup> Defendant concedes that the ALJ “did not explicitly discuss examples of Plaintiff’s daily  
28 activities in her decision.” (ECF No. 18 at 11.)

To be sure, we confirm our precedent does “not require ALJs to perform a line-by-line exegesis of the claimant’s testimony....” Lambert, 980 F.3d at 1277. But the ALJ’s detailed overview of [the claimant’s] medical history—coupled with a nonspecific boilerplate conclusion that her testimony was “not entirely consistent” with her medical treatment—was not enough to satisfy the minimal requirements for assessing credibility. Id. at 1277–78; see Brown-Hunter v. Colvin, 806 F.3d 487, 494 (9th Cir. 2015) (“We cannot review whether the ALJ provided specific, clear, and convincing reasons for rejecting [claimant’s symptom] testimony where, as here, the ALJ never identified which testimony she found not credible, and never explained which evidence contradicted that testimony.”). Summarizing [the claimant’s] testimony about her limitations from her mental impairments, and later mentioning that her symptoms improved with medication and treatment, does not provide clear and convincing reasons to discredit that testimony. See Lambert, 980 F.3d at 1278. This is reversible error. Id. (“Because the ALJ did not provide enough ‘reasoning in order for us to meaningfully determine whether the ALJ’s conclusions were supported by substantial evidence,’ we cannot treat the error as harmless.” (quoting Treichler v. Comm’r of Soc. Sec. Admin., 775 F.3d 1090, 1103 (9th Cir. 2014))).

Wade, 850 F. App’s at 569.

Similarly, here, the ALJ’s summary of the medical evidence and boilerplate assertions that the RFC “sufficiently accommodated [her] impairments,” are not legally sufficient to reject plaintiff’s testimony about her upper extremity symptoms under the Lambert standard. Because it is not clear whether the RFC for light work was supported by substantial evidence, the court finds prejudicial error. Plaintiff is entitled to summary judgment on this claim.<sup>5</sup>

## CONCLUSION

With error established, the court has the discretion to remand or reverse and award benefits. McAllister v. Sullivan, 888 F.2d 599, 603 (9th Cir. 1989). A case may be remanded under the “credit-as-true” rule for an award of benefits where:

- (1) the record has been fully developed and further administrative proceedings would serve no useful purpose; (2) the ALJ has failed to provide legally sufficient reasons for rejecting evidence, whether claimant testimony or medical opinion; and (3) if the improperly discredited evidence were credited as true, the ALJ would be required to find the claimant disabled on remand.

Garrison v. Colvin, 759 F.3d 995, 1020 (9th Cir. 2014). Even where all the conditions for the

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<sup>5</sup> The court does not reach the remaining claims.

1 “credit-as-true” rule are met, the court retains “flexibility to remand for further proceedings when  
2 the record as a whole creates serious doubt as to whether the claimant is, in fact, disabled within  
3 the meaning of the Social Security Act.” Id. at 1021; see also Dominguez v. Colvin, 808 F.3d  
4 403, 407 (9th Cir. 2015) (“Unless the district court concludes that further administrative  
5 proceedings would serve no useful purpose, it may not remand with a direction to provide  
6 benefits.”); Treichler v. Commissioner of Social Sec. Admin., 775 F.3d 1090, 1105 (9th Cir.  
7 2014) (“Where . . . an ALJ makes a legal error, but the record is uncertain and ambiguous, the  
8 proper approach is to remand the case to the agency.”).

9 Here, the record as a whole creates serious doubt as to whether the claimant was, in fact,  
10 disabled during the relevant period. On remand, the ALJ is free to develop the record as needed,  
11 including asking a vocational expert hypothetical questions about available jobs based on a  
12 revised RFC. The court expresses no opinion regarding how the evidence should ultimately be  
13 weighed, and any ambiguities or inconsistencies resolved, on remand. The court also does not  
14 instruct the ALJ to credit any particular opinion or testimony. The ALJ may ultimately find  
15 plaintiff disabled during the entirety of the relevant period; may find plaintiff eligible for some  
16 type of closed period of disability benefits; or may find that plaintiff was never disabled during  
17 the relevant period, provided that the ALJ’s determination complies with applicable legal  
18 standards and is supported by the record as a whole.

19 For the foregoing reasons, IT IS HEREBY ORDERED THAT:

- 20 1. Plaintiff’s motion for summary judgment (ECF No. 16) is granted;  
21 2. The Commissioner’s cross-motion for summary judgment (ECF No. 18) is denied; and  
22 3. The matter is remanded for further administrative proceedings consistent with this  
23 order.

24 Dated: October 13, 2022

25   
26 CAROLYN K. DELANEY  
27 UNITED STATES MAGISTRATE JUDGE  
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